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SERVICE DATE – JULY 24, 2014

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35822

OAKLAND GLOBAL RAIL ENTERPRISE, LLC—OPERATION EXEMPTION—RAIL LINE
OF UNION PACIFIC RAILROAD COMPANY AND BNSF RAILWAY COMPANY

Decided: July 23, 2014

On May 2, 2014, Oakland Global Rail Enterprise, LLC (OGRE) filed a verified notice of exemption pursuant to 49 C.F.R. § 1150.31 to operate over approximately 1.8 miles of track within the Port of Oakland, Cal. (Port), consisting of: (1) approximately 3,800 feet of track owned by Union Pacific Railroad Company (UP) that runs between 2001 Engineers Road and the end of the UP interchange track; and (2) approximately 5,622 feet of track owned by BNSF Railway Company (BNSF) that runs between a point at or near the Bay Bridge Freeway and the Gary Steel facilities on 20th Street in Oakland, Alameda County, Cal. Notice of the exemption was served and published in the Federal Register on May 16, 2014 (79 Fed. Reg. 28,594). The exemption became effective on June 1, 2014.

On June 5, 2014, OGRE filed a petition to withdraw its verified notice of exemption in this proceeding. OGRE states that there was a misunderstanding concerning the nature of the operations it would be conducting for UP and BNSF. They have advised OGRE that, rather than acting as a rail common carrier, it would only be providing contract switching services along the involved trackage.

OGRE's request to withdraw its notice of exemption will be granted. Although the exemption became effective on June 1, 2014, the authority conferred to OGRE is permissive only. OGRE indicates that it has not provided any common carrier services over the involved trackage. See Sierra N. Ry.—Acquis. & Operation Exemption—Union Pac. R.R., FD 35490 (STB served Feb. 16, 2012). Accordingly, OGRE's notice of exemption is considered withdrawn, and the proceeding will be dismissed without prejudice to OGRE's filing another notice of exemption in the future, should OGRE intend to provide services which require Board authorization under 49 U.S.C. § 10901.

As the Board indicated in Oakland Global Rail Enterprise, LLC—Acquisition and Operating Exemption—In the Port of Oakland, Cal., FD 35807 (STB served Apr. 30, 2014), it appears that there are plans for additional activities within the Port that may require Board authorization. The Board expects that the appropriate parties will seek any necessary authority, and notes that any questions as to whether specific construction or operations require Board authority may be directed to the Board's Office of Public Assistance, Governmental Affairs and Compliance.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. OGRE's motion to withdraw its verified notice of exemption is granted. The notice of exemption is withdrawn, and this proceeding is dismissed without prejudice. The notice served and published in the Federal Register on May 16, 2014, in this proceeding is vacated.
2. This decision is effective on its date of service.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.